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THE HOUSE COMMITTEE RAILROAD BILL

HON. SCHUYLER MERRITT, M.C.,

Member House Committee on Interstate and Foreign Commerce

AFTER sitting for three months with the Interstate Commerce Committee in hearings which, when printed, occupied between three and four thousand pages, and after spending several weeks shaping the Esch Bill in Committee and passing it through the House, I had the pleasure of a call from the President of the Academy of Political Science, who did me the honor to ask me to summarize and characterize the bill in a twenty-minute address at the Academy's annual meeting. I immediately thought of the old and well-known story of the colored gentleman who was asked for a loan of ten dollars. He said, "Boss, I thank you for the compliment, but I haven't got the money."

I think before I even attempt to summarize the bill which has been passed by the House it is only justice for me to pay tribute to the sub-committee of the House, headed by Mr. Esch of Wisconsin, who is also the Chairman of the full Committee, for their labors in this field. Mr. Esch has been a member of the Interstate Commerce Committee for many years; he has taken part in all the great measures which have been passed in recent years to regulate the railways of this country. He is a man of great ability, with a judicial and honest mind. And if, as I believe, the labors of himself and his Committee have resulted in some contribution to a proper solution of this question, Mr. Esch is entitled to and should receive the appreciation of bodies like this and of the whole country.

Those of you who are old enough—not many, I think—will remember that when a conservative deacon in the church of Henry Ward Beecher reproached him for something startling or daring which he had said during a sermon, Beecher replied, "If you only knew some of the things I didn't say you would praise me instead of blame me." And so I think that whatever you may criticize in the bill which we actually have passed, you will at least praise us for some things that we have not passed. You will agree that we did well in not putting anything into the

bill which even looked toward public ownership. The Committee, from testimony and from independent study, became convinced that in all the states which had public ownership, such for example as Australia and France, where the conditions were not different from ours, the service was poorer, was more expensive and was tainted by politics. Nor was the Committee much influenced by the very long and able presentation of the plan called the Plumb Plan. This plan, as you know, contemplated the purchase of all the railways of the United States by the Government and turning them over to be operated by the members practically of the four great railway brotherhoods.

It was called in some of the literature that was put out an experiment or possibly a demonstration in democracy in the ownership and control of the railways. I agree that the Plumb Plan would be the embodiment of democracy in ownership because all the bills for buying the railroads amounting to some eighteen or twenty billions of dollars would be footed by the public. But, when it comes to the control, which is to be vested, under that plan, in fifteen directors, two-thirds of whom are to be elected in one way or another by the approximately two million employees of the railroads, that seems to me to be a case of introducing into this country the Soviet on a large scale, because you have two million people, something less than two per cent of the population, electing the directors to run the property which is bought by all the people. That property controls the entire industrial life of this country.

In addition to that, you will perceive that these two million men would be both employers and employed, and, if anything could tend to expense and to demoralization more than that, I do not know what it is. If I should characterize the Plumb Plan in a large way, I should say that it was a plan for two per cent of the population to elect a board of fifteen men to control the industrial life of this country, and secondly, a plan to drive brains out of running the railroads. I say that last, because you can see what a tremendous amount of wire pulling and politics would occur at once among the two million men on these roads to elect people to run them.

As it happens, the estimated wealth of the State of New York, the entire State of New York, is just about the same amount as is invested in railways to-day, and the number of voters is just about the same in the State of New York as would be in the

railroads under the Plumb Plan. Some of you know how much politics goes on in the effort to run the State of New York. But I do not think it would be a circumstance to the politics that would go on in the effort to run the railways, because the prize would be so much greater and the power would be so much greater. I think we can all agree that a book which President Hadley wrote thirty years ago contained a prediction which circumstances have shown to be very true in connection with state-owned railways and to be still more true with the relation to railways run under this Plumb Plan. President Hadley in his book said that the state is more likely to tax industry than to foster it, that state management is more costly than private management, that the political danger would be very great, that politics would tend to corrupt the railway management and the railway management would tend to corrupt politics.

I should not have taken even this amount of time to speak of the Plumb plan were it not for the fatal facility which so many people have for being deluded by pleasant sounding words, and the fatal habit which they have also of failing to examine the real effects of the plan covered by these words.

So, for those reasons, as well as others, it seemed to us that our duty and the work before us was to retain, so far as we could, that far-sightedness, that efficiency, and that business ability which had made the railway system of the United States the greatest system with the lowest rates and the best system to serve the people that the world has ever seen.

Now, in its structure, the bill which has passed the House of Representatives takes up three phases of the matter. First, the actual return of the roads; second, the necessary period for reestablishment of personnel and ordinary operation of the roads under their owners, and, third, the question of their continued operation.

In the beginning, the Committee felt bound to take into account the reasons why this problem exists. They could not take up the problem as if the roads were in the hands of the government by negotiation or through the will of their owners. They had to consider the problem as it exists, which is, that the roads were taken over without the consent of their owners, by operation of law.

During the period of operation by the government many hundreds of millions of debts were incurred by the government on

behalf of the roads, without the consent of the owners, without their advice and at war prices. Now, this, it seemed to the Committee, and I think it would seem to any fair man, makes a very strong equitable claim against the government on behalf of the roads, and practically forces the government, during this period of reconstruction, at least, and to the extent that the debts were incurred during war service, to act as banker for the roads. That involves, of course, funding in some form the debts which the roads will owe to the government on settlement and the bill provides (without troubling you with too much detail and too many figures) that the debts on account of capital expenditures shall be repaid in fifteen years, payments to begin in five years. I may say, in passing, that this particular clause was the object of a great deal of controversy in the House and the bill as finally amended into its present form is not in this respect, as many think, and I am one of them, quite so generous to the roads as it should be. And, when I say generous to the roads, I mean in the interest of the proper solution of the whole question.

It may be proper for me at this point to make a comparison with the Senate committee bill whose refunding provision is more generous to the roads than the provision which the House passed. Therefore in the bill which finally passes the Senate and comes to conference, there may be a favorable modification. Of course that is in the future and I cannot tell. The other debts of the roads are to be paid to the government in demand notes secured by such collateral as may be available. Then there is a provision that if, owing to their needs or the conditions of the money market during two years after the roads are returned, they find themselves short of funds, there is created a revolving fund of two hundred and fifty million dollars, from which the President in his discretion and under proper safeguards may make loans to the roads. And finally, to give the roads time to turn about, and to recover their organizations and go on their normal way, the guarantee of the standard return is continued for six months after the roads are taken over.

That takes care of the transition period, it is hoped. Then comes the question of continued operation; and while I do not pretend to know the Senate Bill as intimately as I do the House Bill, at this point the two bills separate widely. It was strongly urged before the Senate and before the House that a Transportation Board be created which should be a body apart from the

Interstate Commerce Commission, and which should take certain of the executive duties of the Commission, but apart from that and more important than that, this Board was to take a broad view of the transportation needs and the transportation facilities and service of the United States without regard to particular roads, and to consider what was to the interest of the United States by way of proper transportation facilities. The Board also was to consider what operating revenues were necessary adequately to support such service. It was to make certain recommendations to Congress and to the Interstate Commerce Commission and the Commission was to make rates based on facts and recommendations which were to be put before them by this Transportation Board.

That is substantially in the Senate Bill, but the House of Representatives, and its Committee, has been and is averse to adding to the great number of Boards and Committees now in Washington transacting the business of the United States. A board created by Congress differs from almost everything else created by man. You all know that most human creations contain within themselves the forces of decay and the great difficulty is to keep them alive, but when you create a board in Washington it seems to contain the seed of eternal life and growth, and the difficult thing is to kill it. So we thought that we would rather stick to the evils that we know about than to create others that we knew not of. Our effort was to increase the powers and perfect the means of operation of the Interstate Commerce Commission. We tried to profit by the knowledge and experience which have come during the war from unified control, so we have given to the Commission enlarged powers by way of unifying terminal facilities and the use of rolling stock, etc., so that the greatest benefit can be had from facilities which now exist. We have gone quite far; if you had been in the House and heard the oratory of the representatives of some states you would have thought we had gone too far, in extending the powers of the Interstate Commerce Commission over all rates, both state and interstate. Those of you who are lawyers know the Shreveport case. We have put that case into statute law and extended it, I think the lawyers believe, somewhat beyond the Supreme Court decision. If I can put my hand upon it I will read a portion of the act. I do not want to take too much of your time, but the matter is important. Great difficulty, confusion and loss has been

experienced by railroads because state commissions made rates for intrastate business far below interstate rates. The low state rates caused loss to the roads and threw an undue burden on interstate business. It is now provided that if any road thinks it is discriminated against by a state commission, it can bring a complaint before a joint session of the Interstate Commission and the State Commission involved and then the act goes on as follows:

"The Commission shall have authority, after full hearing, to make such findings and orders as may in its judgment tend to remove any undue advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue burden upon interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, and such findings or orders shall be observed while in effect by the carriers parties to such proceeding affected thereby, *the law of any State or the decision or order of any State authority to the contrary notwithstanding.*"

That paragraph will commend itself to the lawyers present, I think, as a very beneficial part of the act and one which is very far reaching. Another provision of our act which I think good, is this, that after these rates are established by law as fair and reasonable, every road can make all the money and all the profit it can out of these legal rates, and what is better, keep it after it has made it. It was urged by a large and influential body of gentlemen, and very ably argued that rates should be established to produce a definite percentage of return on the value of the property used in transportation. Our Committee felt, and the House acted upon its recommendation that if that were done, it would go far toward removing incentive and toward removing initiative, efficiency and the necessity of economy. Then we thought further that if after a road by good management had made a certain percentage of profit, it would certainly not be any incentive to further effort to take away from it the extra profit it might earn by economy and good judgment and foresight.

However much the act which we framed may be criticized in some of its details, it has these broad features, that it gives the Interstate Commerce Commission power to control the roads, it gives the Commission power and modifies to that extent the anti-trust laws, to permit combinations and pooling so that the entire

system of railroads in this country can be treated as a whole and used as a whole for the benefit of the commerce of the whole country. In addition to that, it does not destroy competition of service, it does not take from a carrier the earnings which it can get from good service, economy and efficiency and from wise foresight in making extensions or combinations.

I have left to the last a subject which is perhaps the most difficult of all, and that is the question of labor on the railroads. The provision which is in the bill that passed was put in as an amendment. The provision which the Committee reported to the House was not one which, in the current phrase, had "teeth." It was really a mild form of compulsory arbitration. But that was defeated, and the present clause put into the bill. That was done in the haste of debate, under what is called in the House, the five-minute rule, so that extended debate and examination were hardly possible. I cannot help feeling that if the provision which is in the bill could have been debated and could have been understood, it would hardly have been passed. This bill on its face would look like a bill for conciliation and arbitration, but if it is examined critically, it will be found that if disputes which arise are not settled by certain boards created by the bill,—if it comes to a point where the men cannot agree with the carriers,—that the only way to get that dispute before the final board of appeals created by the bill is by the consent of the officers of the brotherhoods. In other words, it is compulsory arbitration if the brotherhoods want it, and is nothing if they do not want it. There is no possible way for the roads to get any of the disputes before these boards without the consent of the brotherhoods. That is one thing that seems to me to be one-sided.

There is another section of the bill which provides that the wage rates and other arrangements which have been made under the stress of war shall remain at their present level until the employees will agree that they may be lowered. That, you see, is introducing into this Bill the worst feature of the Adamson Act, only raised to the *nth* power. I cannot believe that even the men themselves when they come to understand this will feel that that is a fair arrangement. It seems to me before this bill becomes a law that those parts of it at least must be examined carefully and modified to the extent of making them equally fair to both sides.

I think perhaps that what I have said indicates what

you all knew before I said it—that this railway question is one of the most difficult and intricate questions which has ever come up for settlement in this country. I doubt if anyone who has not sat for months in a committee room listening to representatives of carriers and shippers and representatives of the employees, all the way from Maine to Texas, and from New York to Alaska, can appreciate how complex and how far reaching these questions are. I doubt if any other question can more truly be said to touch every man and woman in this country. What we were impressed with, and most agreeably impressed with during all the hearings was the broad spirit which was shown by all representatives of all interests before the Committee. They all appreciated that the problem was not local, was not confined to them or to their interest, but it had to do with the erecting in this country of a great transportation machine, and you know, and they know, that in order to make that machine an efficient machine, it must be supported. Without sufficient rates to make reparation for wear and tear and to create a credit basis for extensions and new roads to meet the growth of this country, the machine will be overloaded and break down. Therefore the influence of this great Academy and of all thinking people must be exerted to the end that the country will view the question in a broad way. And you must see to it that men in Congress and elsewhere are impressed with the importance, not of criticising what has been done in the past, not of trying to make this generation suffer for the sins of the past generation, but of considering facts as they are and doing all we can to help this great transportation system, because if that is prosperous, the whole country will and must be prosperous.

I can truly say to you that the Interstate Commerce Committee of the House and I believe the House itself, approached this question in that spirit and the result of its efforts, I think, is a contribution to the solution of the question.